

**REMARKS**

The application has been amended and is believed to be in condition for allowance.

There are no formal matters outstanding.

Claims 1 and 10 are independent. New claim 16 is also independent.

Claims 1-15 stand rejected as anticipated by Warner 6,669,600.

Claims 16-20 are new.

For the claims to be anticipated, every recited feature of the claims must be disclosed by the reference, i.e., by Warner.

Consider original independent claim 1 first. Original Claim 1 recited an exercise repetitious motion counter, comprising:

"a case;

"a repetition counter display mounted within the case and visible through a first opening of the case;

"a proximity sensor mounted within the case and extending through a second opening of the case, the proximity sensor connected to the display to cause the display to show a repetition count when a portion of an exerciser's body comes into non-contact proximity to the proximity sensor; and

"a detection distance setting mounted within the case and extending through a third opening of the case, the detection distance setting being connected to the proximity sensor and variable to determine a proximity sensitivity range of the proximity sensor."

The Warner Abstract fairly discloses a repetitive-motion exercise device that remotely senses and records iterations of a moving body member.

With reference to the disclosure beginning at column 9, line 66, Warner teaches a sensing means (motion sensor) for creating a sensing signal based on the movement of a mechanical part on an exercise station or the movement of a body part. The motion of an object of interest is detected by detecting when the object is within a certain proximity and when it is not. The proximity sensor of Warner, however, does not anticipate the recited proximity sensor.

Also, this disclosure, in itself, does not anticipate either of the recitations of:

"a proximity sensor mounted within the case and extending through a second opening of the case, the proximity sensor connected to the display to cause the display to show a repetition count when a portion of an exerciser's body comes into non-contact proximity to the proximity sensor; and

"a detection distance setting mounted within the case and extending through a third opening of the case, the detection distance setting being connected to the proximity sensor and variable to determine a proximity sensitivity range of the proximity sensor."

First, there is no disclosure of the Warner sensor extending through an opening of the case. The Warner sensor is magnetic and is not seen to extend through an opening of the case. Further, the Warner sensor makes counts based on proximity to a magnetic element which must be placed either on the user or on the equipment. Thus, the Warner proximity sensor does not cause the display to show a repetition count when ***a portion of an exerciser's body comes into non-contact proximity to the proximity sensor.***

Also, Warner is not found to disclose the detection distance setting, the setting being variable to determine a proximity sensitivity range. See the requirement that the detection distance setting extends through an opening of the case.

Although there is disclosed a gain potentiometer 31, that potentiometer appears directed to gain associated with an audio tone and not as to proximity sensitivity range.

In the interest of advancing the case, claim 1 has been amended to recite that proximity sensor ... extending through a

second opening of the case to emit a reflectable light signal, the proximity sensor [causing a count when] ... an exerciser's body comes into non-contact proximity to the proximity sensor as indicated to detection of the reflectable light signal reflected back to the proximity sensor; and that the detection distance setting being variable to determine a distance proximity sensitivity range of the proximity sensor.

These features are not taught by a magnetic system as taught by Warner. Nor do the alternative embodiments involving range-finding sensors, i.e., using ultrasonic or infrared range-finding sensors, teach the recited features.

In view of these shortcomings of Warner, reconsideration and allowance of claim 1 are respectfully requested.

As to the remaining claims, the following features have not been found in Warner.

As per claim 10, Warner is not found to disclose a photoelectric, reflected light sensing, proximity sensor, the photoelectric proximity sensor showing a repetition count when a light beam emitted from the sensor and reflected back to the sensor.

As discussed above, Warner is not found to disclose the claim 11 recitation of a detection distance setting element ... being connected to the proximity sensor and variable to provide

user-determination of a distance proximity sensitivity range of the proximity sensor.

Also, Warner is not seen to disclose all the features of new independent claim 16, e.g., the proximity sensor emitting a reflecting light signal and determining an exerciser's movement by detecting the light signal reflected back to the proximity sensor, the reflected light signal being detected by the sensor indicating a portion of an exerciser's body coming into non-contact proximity to the proximity sensor.

The claim 17 recitation of a detection distance setting mounted variable to determine a proximity sensitivity range of the proximity sensor based on reflected light originating from the proximity sensor, is not found in Warner.

Warner does not teach a proximity sensor comprising a photoelectric sensor (claim 18) or a self calibrating, self-contained photoelectric sensor (claim 20).

Note also that the present invention is a stand-alone device, self-contained and battery-powered. Warner is not seen as teaching or suggesting such a counter. Indeed, Warner is much more complex and teaches away from the simple and independent device of the present invention.

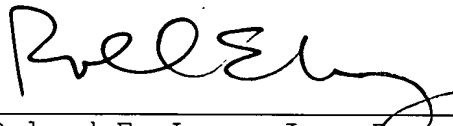
In summary, although Warner teaches a repetitive motion counter, the Warner counter does not have the features recited by

the pending claims. In view of this, reconsideration and allowance of all the pending claims are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



---

Roland E. Long, Jr., Reg. No. 41,949  
745 South 23<sup>rd</sup> Street  
Arlington, VA 22202  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

REL/mjr  
April 27, 2004